

A. Ross Pearlson
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Matthew W. Friedrich (*pro hac vice* application pending)
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Counsel for Defendant The Goldman Sachs Group, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SERGEY ALEJNIKOV,

Plaintiff,

v.

THE GOLDMAN SACHS GROUP,
INC.,

Defendant.

No. 12-cv-5994-KM-MAH

**NOTICE OF MOTION TO
DISMISS PLAINTIFF'S
VERIFIED COMPLAINT OR,
IN THE ALTERNATIVE, FOR
SUMMARY JUDGMENT**

**ORAL ARGUMENT
REQUESTED**

To: Kevin H. Marino
MARINO, TORTORELLA & BOYLE, P.C.
437 Southern Boulevard
Chatham, NJ 07928

Counsel for Plaintiff Sergey Aleynikov

PLEASE TAKE NOTICE that on November 5, 2012, or on such date and time as may be set by the Court, Defendant The Goldman Sachs Group, Inc. (“GS Group”), by and through its undersigned counsel, shall move before the Honorable Kevin C. McNulty at the United States District Court for the District of New Jersey, Martin Luther King Building and United States Courthouse, 50 Walnut Street, Newark, NJ 07101, for entry of an Order dismissing Plaintiff’s Verified Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), or, in the alternative, for entry of an Order granting summary judgment against Plaintiff Sergey Aleynikov (“Aleynikov”) pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1, declaring that Aleynikov is: (a) not entitled to the advancement of reasonable legal fees incurred in defending against New York criminal charges in *People v. Aleynikov*, 2012-NY-60353; (b) not entitled to indemnification for reasonable legal fees and expenses that he incurred in defending against federal criminal charges in *United States v. Aleynikov*, 10-cr-0096; (c) not entitled to an award of reasonable legal fees and expenses incurred in connection with this action; and (d) not entitled to prejudgment interest.

PLEASE TAKE FURTHER NOTICE that in support of this motion, GS Group will rely on: (1) its Memorandum of Law In Response To The Order To Show Cause, In Opposition To Plaintiff’s Motion For Summary Judgment, And In Support Of Defendant’s Motion To Dismiss, Or, In The Alternative, For Summary

Judgment; (2) Defendant's Response To Plaintiff's Statement Of Material Facts Not In Dispute; (3) Defendant's Statement Of Material Facts Not In Dispute; (4) the Declaration of James M. Van Splinter, dated October 11, 2012; (5) the Declaration of A. Ross Pearlson, dated October 11, 2012; (6) the Affidavit of Gregory K. Palm, dated October 10, 2012; (7) the Affidavit of Matthew E. Tropp, dated October 10, 2012; (8) the Affidavit of Adam Schlesinger, dated October 10, 2012; and (9) the Affidavit of Caroline Heller, dated October 10, 2012.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is attached and that The Goldman Sachs Group, Inc. respectfully requests oral argument on this motion.

Dated: October 11, 2012

/s/ A. Ross Pearlson

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